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IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
WEDNESDAY, THE SIXTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE G. BIKSHAPATHY
and
THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL NO : 188 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 04/07/2003 in WP NO : 1225 OF 2003 on the file of the High Court.)

Between:
1 The Union of India, through the Secretary, Ministry of Home Affairs,North Block,New Delhi.
2 The Director General, Border Security Force, Block No.10, CGO, Complex, New Delhi.
3 Deputy Director (Accounts), HQ DG BSF, PAD, Madangir,Pushpa Bhavan,New Delhi.
4 The Chief Law officer, BSF,Block No.10,CGO Complex, Lodhi Road, New Delhi.

..... APPELLANT(S)

AND

K.Rama Rao, commandant(Retd.) Border Security force,R/o.Flat No.5 and 6/1,First Floor, C&B Apartment, Dargamitta,Nellore.

.....RESPONDENT

For the Appellant:MR.S.S.VARMA

For the Respondent No.: MR.P.RAVI KIRAN

The Court Made the Following :

JUDGMENT:

(per the Hon'ble Sri Justice G.Bikshapathy)

1. This Writ Appeal is filed assailing the order passed by the learned Single Judge in Writ Petition No. 1225 of 2003 dated 4.7.2003.

2. Respondent herein filed the Writ Petition seeking directions to the respondents therein, to grant full pensionary benefits by re-fixing the pension from 30th September 1997 i.e. from the date of retirement, if the petitioner is legally entitled. The learned Judge basing on the judgment of the Supreme Court in COMMON CAUSE, A REGISTERED SOCIETY VS. UNION OF INDIA[1], allowed the Writ Petition and directed the respondents to re-fix the pension from 30th September 1997 by taking into account 30 years of qualifying service put in by the petitioner. Aggrieved by the said order, the present Writ Appeal has been filed by the Central Government.

3. The learned standing counsel appearing for the Central Government submits that the order of the learned Single

Judge is erroneous and contrary to law. He submits that the petitioner is not entitled for the pension on the basis of 30 ½ years of qualifying service and therefore, the order is liable to be set aside.

4. We are afraid we cannot accept the contention of the learned standing counsel for the Central Government. Even though the prayer was made for full pensionary benefits but the learned single Judge directed the authorities to pay the pension taking into consideration 30 years of qualifying service.

5. Under those circumstances, we do not find any merit in the Writ Appeal and accordingly, the Writ Appeal is dismissed at the stage of admission itself.

DEPUTY REGISTRAR

Dated: 16.06.2004

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// TRUE COPY//

SECTION OFFICER

One fair copy to the Hon'ble Sri Justice G. Bikshapathy (for his Lordship's kind perusal).

To
The Secretary, Union of India, Ministry of Home Affairs, North Block,New Delhi.
2 The Director General, Border Security Force, Block No.10, CGO, Complex, New Delhi.
3 Deputy Director (Accounts), HQ DG BSF, PAD, Madangir,Pushpa Bhavan,New Delhi.
4 The Chief Law officer, BSF,Block No.10,CGO Complex, Lodhi Road, New Delhi.

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[1] 2 (1987) 1 SCC 142 = 1987 SC 210